



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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CONTRACTOR DISTINGUISHED FROM AN EMPLOYEE

Issued July 22, 1966

Where a contract logger controlled and supervised his own employees, paid all expenses, and was not treated as an employee for unemployment pay and Social Security purposes, is the taxpayer a contractor for hire or an employee?

The taxpayer, a logger, had not reported Excise Taxes on the amounts received in connection with a logging job performed for a lumber company. The taxpayer contended that he was merely a supervisory employee of the logging company and that the amounts which he received to pay expenses of the logging operation were received and expended by him purely as an agent of the logging company. The taxpayer paid all expenses of the logging operation out of a bank account in his own name but contended that the logging company provided the funds to open the account. Control over the disbursements from the account, however, remained with the taxpayer. The employees engaged in the logging operation were paid out of the taxpayer's payroll accounts. The taxpayer contended further that he was merely employed on a fixed monthly salary which was paid regardless of whether logging was performed or not and that he performed other work other than logging supervision for the logging company.

The Tax Commission held that the logging company hired the taxpayer under a cost-plus-fixed-fee contract to perform the logging services and that the gross amounts received from the logging company by the taxpayer were taxable.

As authority, the Commission cited Rule 105 which provides that:

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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"A person engaging in business is . . . one, generally, acting in an independent capacity, whether or not subject to Immediate control and supervision by a superior, or one who acts as an employer and has employees subject to his control and supervision."

The Rule also provides that:

". . . Where a person is not construed to be an employee under the State Unemployment Compensation Act or the Federal Social Security Act, such person will not be considered an employee under the Revenue Act."